

## REMARKS/ARGUMENTS

Claims 33-56 are pending in the application. In the aforementioned Office Action, claims 33-44 stand rejected. Claims 45-56 were withdrawn from consideration by the Examiner.

### **I. Telephone Interview with the Examiner**

A telephone interview was conducted with the Examiner on April 9, 2009. During the interview, the Examiner discussed the rejection of the claims with respect to the cited references. More specifically, the Examiner agreed that the *Eyuboglu* (U.S. Patent No. 6,781,999) reference fails to teach all of the claim elements of claim 33. A more detailed description of the Examiner's comments is provided in the arguments set forth below.

### **II. Election/Restrictions**

In the Office Action, the Examiner withdrew claims 45-56 and indicated that these claims are directed to an invention that is independent or distinct from the invention originally claimed. Applicants reserve the right to re-introduce claims 45-56 for a later filing.

### **III. Rejection of Claims 33, 36, 39, and 42 under 35 U.S.C. §102(e)**

The Examiner rejected claims 33, 36, 39, and 42 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,781,999 (hereinafter "*Eyuboglu*"). Applicants respectfully traverse the Examiner's rejection.

#### **Claim 33**

With respect to claim 33, Applicants respectfully submit that claim 33 is allowable over the *Eyuboglu* reference. For example, *Eyuboglu* fails to teach all of the claim elements of claim 33. In particular, *Eyuboglu* fails to teach the claim element of:

"means for transmitting the encapsulated packet over the internal multicast tree in a second multicast transmission, wherein the second multicast transmission identifies the infrastructure element as a source of the second multicast transmission."

In the telephone interview, the Examiner agreed that the *Eyuboglu* fails to teach the above claim element. For example, *Eyuboglu* fails to teach a second multicast transmission as claimed in claim 33. Therefore, Applicants submit that claim 33 is allowable under 35 U.S.C. §102(e) and respectfully request that the Examiner's rejection of claim 33 be withdrawn.

#### Claims 36, 39, and 42

With respect to claims 36, 39, and 42, Applicants respectfully submit that these claims recite limitations similar to claim 33 and are therefore allowable over the *Eyuboglu* reference for at least the same reasons at claim 33.

Therefore, Applicants submit that claim 36, 39, and 42 are allowable under 35 U.S.C. §102(e) and respectfully request that the Examiner's rejection of claims 36, 39 and 42 be withdrawn.

#### **IV. Rejection of Claims 34, 35, 37, 38, 40, 41, 43, and 44 under 35 U.S.C. §103(a)**

The Examiner rejected claims 34, 35, 37, 38, 40, 41, 43, and 44 under 35 U.S.C. §103(a) as being unpatentable over *Eyuboglu* in view of U.S. Patent No. 6,895,216 (hereinafter "*Sato*"). Applicants respectfully traverse these rejections.

To establish a prima facie case of obviousness under 35, U.S.C. §103(a), the prior art reference (or references when combined) must teach or suggest all the claim limitations. Furthermore, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

#### Claims 34, 35, 37, 38, 40, 41, 43, and 44

With respect to claims 34, 35, 37, 38, 40, 41, 43, and 44, Applicants respectfully submit that the *Eyuboglu* and *Sato* references fail to teach, either alone or in any combination, all of the claim elements of claims 34, 35, 37, 38, 40, 41, 43, and 44. As described above, the *Eyuboglu* reference fails to teach all of the claim elements of claims 33, 36, 39, and 42. The *Sato* reference fails to remedy the deficiencies of *Eyuboglu*. For example, the *Sato* reference fails to teach "means for transmitting..." as claims in claims 33 and similarly claimed in claims 36, 39, and 42.

Therefore, since claims 34, 35, 37, 38, 40, 41, 43, and 44 are dependent from claims 33,

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36, 39, and 42, Applicants submit that claims 34, 35, 37, 38, 40, 41, 43, and 44 are allowable for at least the same reasons as claims 33, 36, 39, and 42.

Accordingly, Applicants respectfully request that the Examiner's rejection of claims 34, 35, 37, 38, 40, 41, 43, and 44 under 35 U.S.C. §103(a) be withdrawn.

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### CONCLUSION

In light of the above amendment and remarks, Applicants respectfully request reconsideration and allowance of the application.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution; the Examiner is invited to contact Applicants' undersigned representative at the telephone number below.

In the event of any fees that may be due or any overpayment that may be associated with this response, please charge or deposit the amount to Deposit Account No. 17-0026.

Dated: April 21, 2009

Respectfully submitted,

By: 

Kam T. Tam, Reg. No. 35,756  
(858) 651-5563

QUALCOMM Incorporated  
Attn: Patent Department  
5775 Morehouse Drive  
San Diego, California 92121-1714  
Telephone: (858) 658-5787  
Facsimile: (858) 658-2502